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WORKING SESSION MEMORANDUM

DATE: February 24, 2012

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development 
Eve Tapper, Chief Planner for Current Planning
Seth Zeren, Chief Zoning Code Official

RE: #400-11: Ald. Gentile, Harney, Sangiolo requesting establishment of a Business 5/Riverside Zone: a mixed-use transit-oriented district at the site of the current Riverside MBTA rail station. The proposed new zone shall allow by special permit a single commercial office building not to exceed 225,000 square feet with a maximum height of 9 stories, two residential buildings not to exceed 290 housing units in total, retail space not to exceed 20,000 square feet, along with a multi-use community center.

MEETING DATE: February 27, 2012

CC: Board of Aldermen
Planning and Development Board

SUMMARY

On January 9th, Planning staff presented some concepts and sample text for a new zone for Riverside. At its meetings on January 23rd and February 9th, the Zoning and Planning Committee reviewed a "menu" of zoning tools and their policy implications. While consensus around many policies and approaches was reached during these sessions, there were some differences in approach among the Committee members. In order to reconcile these differences, the Planning Department introduced a two-tiered process: the first part intended to reflect the current docket language and the second part included additional special permit criteria and performance measures, as well as some incentives. Additional questions and concerns were raised around a variety of topics, which are addressed in this report and in revised text, which now includes three "tiers" or possible actions for Committee consideration. Should the Committee be satisfied that the draft text is reasonably close to one upon which they may be willing to take action, and supports the current tiered approach, staff recommends docketing this item for a public hearing so the public's voice can inform the final text.

ZONING TEXT

The attached zoning text (Attachment A) differs from the draft presented on February 15th in the following ways:

Actions. There are now three tiers proposed, upon which actions can be taken and that are crafted to provide options for a range of development possibilities on the site. Actions on these items are intended to be taken individually in the order shown; both the second and third actions can modify the first action and do not depend on each other.

- The **initial action (Tier I)** includes all the provisions of the original docket language, as well as impact studies, performance measures, and additional special permit criteria. It no longer includes a million square foot cap on development; however, the dimensional standards in this text will hold the intensity of development to below this threshold. The text does not include incentives, as there did not seem to be appreciable support for these (with some exceptions noted below); nor is the contextual height referenced any longer, since it appeared to create confusion and was not a relevant reference point in addition to absolute heights.
- The **second action (Tier II)** offers an incentive to allow an increase in the development potential in exchange for direct access to the subject property from the highway. Following a vote in favor of Tier I, a vote for this second action would allow an additional 250,000 square feet of gross floor area, not to exceed 1.2 million square feet total gross floor area, and an FAR of 3 to be added to the site development, provided direct highway access is secured. The impact studies, performance measures and additional special permit criteria would apply.
- A possible **third action (Tier III)** offers flexibility within a 1.5 million square foot cap with a maximum of 300 dwelling units, additional building height, and at least one use from categories A, B, and C. A vote for this option would revise the caps set in Tier I and allow for flexibility in terms of the proportions of uses within this cap. This option, like the previous two, would be subject to impact studies and post-construction monitors prescribed in the initial action (Tier I).

Summary of changes proposed in zoning text in the initial (TIER I)

- Size of Development Parcel. The previous report required a ten-acre minimum parcel; however, after revising the shape of the development parcel, it is now proposed to be 9.33 acres without any changes to the project design. City staff discussed the size of the development parcel with representatives of the MBTA's Transit Realty, who expressed a willingness to consider an increase in the size of the development parcel to accommodate ten acres, if desired, and another meeting is being planned with the MBTA and BH Normandy in the near future. In the meantime, the minimum parcel size has been eliminated from the text, which instead notes that the development parcel will not be less than 9.33 acres. *NOTE: For the purposes of discussion, the Mixed-Use Task Force generally referred to ten acres to describe the City's largest; however, the Element does not define the City's largest sites by a specific acreage.*

- Access to the river. Staff also asked the MBTA representatives about whether the development parcel could be extended towards the river. Again, they expressed a willingness to consider such changes within the MBTA's authority, and provided that such changes don't interfere with their maintenance operations. This would likely require the MBTA to clear some property from the rear of the site and coordinate with DCR. Planning staff will coordinate between the jurisdictions prior to the special permit application, since the jurisdictional boundaries will need to be considered in planning for improvements on the river side of the site.
- Intensity of the Development Parcel. As noted, the initial action (Tier I) does not include a million square foot cap on development. The text provides for a maximum of 290 dwellings, 225,000 square feet of gross floor area within one structure, and no more than 20,000 square feet of retail space. Community space is allowed by right in this text.
- Setbacks. The previous text references setbacks appropriate to uses on particular frontages with no setback required on the highway and ½ building height required on Grove Street. The stepped building approach can be employed to further diminish the visual impact of tall buildings, particularly from Grove Street. Applicants are encouraged to employ this approach, of setting upper floors farther back from property lines, especially along this scenic road.
- Beneficial Open Space. The definition of beneficial open space (as listed in the PMBD) does not specifically require all beneficial open space to be publicly accessible. The intent of the definition is aimed at making sure open spaces are not leftover vegetated spaces, such as those between buildings that aren't very useful or enjoyable outdoor places; however, there may be beneficial spaces that are appropriately private, such as common recreation areas for residents, private swimming pools or shared patios. The minimum required beneficial open space has been increased from 10 to 15% and staff recommends requiring at least half of the beneficial open space to be publicly accessible. Interest also was expressed in further developing connections not only between the beneficial open spaces, but also among natural and created open spaces and trails in and around the site to maximize the recreational potential of this scenic location. As such, the special permit criteria regarding open space has been expanded to encourage enhancement of such opportunities for public enjoyment.
- Special Permit Filing Requirements. As staff noted in previous meetings, these are generally the types of requirements City staff would ask the developer of a large project to provide; including them in the zoning text makes them "official" and provides the developer with a greater degree of certainty as to what to expect when bringing forward a proposal. These are now all included in Tier I, as no concerns were noted about their inclusion at the previous meetings. The proposed text no longer requires a massing model, but rather a 3-D computer model, which can be posted on the City website where it can be publicly viewed and easily stored. A shared-parking analysis has been added to the list of required submittals for review at special permit.
- Conceptual Review. The Committee discussed the possibility of requiring conceptual review prior to applying for a special permit, so this also has been added to list of pre-filing requirements. Conceptual review would give the developer an "early read" on a master plan for the site before investing in costly engineered drawings, and offer a chance for the public to

comment on it earlier in the process. The proposed conceptual plan would include building footprints, proposed uses, and enough information about the proposed project to do preliminary zoning review and impact analyses. The Land Use Committee would host a public meeting at which the project design and rationale would be presented and where public comment would be taken so as to inform design features prior to submittal for a special permit.

- Incentives. Many of the incentives presented in the previous draft have been eliminated, as it was duly noted that lowering the minimum requirements to accommodate incentives may not have been a very useful zoning tool here. As such, most incentives have been replaced by higher minimum requirements for environmentally-sensitive design, beneficial open space, and building height. Bonuses are no longer offered for creating additional affordable housing or community space; however, one incentive remains under Tier II for direct access to the highway, as this feature was identified by Committee members as particularly desirable, since the direct access would offset the traffic generated by additional density. The previous incentive for direct access to the river has been incorporated into a more robust special permit criterion, as noted previously under Beneficial Open Space.

NEXT STEPS

If the Committee finds that the text (with or without further changes) represents language that is relatively close to that upon which it can foresee taking action and agrees with the three-tiered approach, the next step would be to schedule a public hearing on the rezoning. Additional changes to the text can be made in response to public comments following the hearing, so long as they fall within the parameters of proposed docket language.

Petition #__-12
February 27, 2012 – Hearing Draft

WHEREAS, the 22-acre area owned by the Massachusetts Bay Transportation Authority (“MBTA”) and including the MBTA Station and lands adjacent to existing highways in the Riverside area of the City of Newton represents an unique opportunity to encourage mixed-use development based upon smart growth principles; and

WHEREAS, the purpose of a mixed-use development within the Riverside area is to allow development appropriate to the area and its surroundings, provide enhancements to infrastructure, integrate with and protect nearby neighborhoods, provide a mix of compatible and complementary commercial and residential uses appropriate for transit-oriented sites, and advance the City’s long-term goal of strengthening alternatives to single-occupancy automobile use while remaining consistent with the City’s *Comprehensive Plan*; and

WHEREAS, the Zoning Ordinances of the City of Newton do not presently provide the appropriate development controls and incentives to encourage and control the transit-oriented development of the Riverside area; and

WHEREAS, such controls and incentives are in the public interest and further the objectives of the City’s *Comprehensive Plan*; and

WHEREAS, this proposal does not rezone any land, but provides a new zoning district for Mixed-Use Development and no land will be placed in this zone until the Board of Aldermen approves a map change;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEWTON AS FOLLOWS:

TIER I – INITIAL ACTION

1. *By re-designating the current Section 30-13(f) as Section 30-13(h); re-designating the current Section 30-13(g) as Section 30-13(i); and inserting a new Section 30-13(f) and a new Section 30-13(g) as follows:*

(f) Establishment and purpose of the Mixed-Use 3/Transit-Oriented District.

(1) Purpose. The purpose of the Mixed-Use 3/Transit-Oriented District is to allow the development of a mixed-use center on a 9.33-acre parcel near the terminus of a mass-transit rail line, an interstate highway, a scenic road, and the Charles River, commonly referred to as the Riverside MBTA station, pursuant to the City’s *Comprehensive Plan*, particularly the Mixed-Use Centers and Economic Development Elements. This district shall encourage comprehensive design within the site and with its surroundings, integrate complementary uses, provide enhancements to public infrastructure, provide beneficial open spaces, protect neighborhoods from impacts of development, allow sufficient density to make development economically feasible, foster use of alternative modes of transportation, and create a vibrant destination where people can live, work and play.

(2) Allowed uses. In the Mixed-Use 3/Transit-Oriented District, land, buildings, and structures may be used or may be designed, arranged, or constructed for one or more of the purposes listed in Section

30-13 Table A, subject to the density and dimensional controls of Section 30-15 and the parking requirements of Section 30-19.

TABLE A: PRINCIPAL USES*	
Uses similar to or accessory to the following	BR
<i>Mixed-Use Development</i>	
• Mixed-Use Development per section 30-13(g)	SP
<i>Category A</i>	
• General office: including but not limited to research and development, professional offices, medical offices, and similar uses	BR
• On the ground floor	SP
<i>Category B</i>	
• Retail sales including but not limited to retail bakery, and similar uses, excluding sales of motor vehicles or gasoline	BR
• Retail banking and financial services	SP
• Automated Teller Machines	BR
• Personal services: including but not limited to barbershop, salon, tailor, cobbler, personal trainer or fitness studio, and similar uses, excluding repair of motor vehicles	BR
• Retail laundry or dry cleaning	BR
• Eating and drinking establishments, excluding fast-food establishments as defined in section 30-1	BR
• Health club	BR
• On the ground floor	SP
• Place of entertainment and assembly, theater	SP
• Lodging, hotel, motel	SP
• Parking, non-accessory commercial	SP
• Any retail, service, eating and drinking establishment over 5,000 square feet of gross floor area	SP
• Drive-in business	X
<i>Category C</i>	
• Multifamily dwelling (a building containing three or more dwelling units)	BR
• Live/work space or home business	BR
• Single-room occupancy dwelling, Single-person occupancy dwelling	SP
• Assisted living or nursing home	SP
<i>Public and Community</i>	
• Community use space	BR
• Day care (adult or child)	BR
• Place of religious assembly	BR
• Government offices or services	BR
• Park or garden	BR
• Nonprofit or public school	BR
• Rail or bus terminal	BR
• Public parking	BR
• Library or museum	BR

*A use listed in Table A is permitted as-of-right in the Mixed-Use 3/Transit-Oriented District where denoted by the letter "BR." Uses designated in the Table by the letters "SP" may be allowed only if a special permit is issued by the Board of Aldermen in accordance with the procedures Section 30-24. Uses denoted by an "X" are prohibited.

(g) **Development by special permit in the Mixed-Use 3/Transit-Oriented District.** Land and buildings in the Mixed-Use 3/Transit-Oriented District may be used for the purposes authorized in 30-13(f)(2). Notwithstanding section 30-13(i), any development that proposes an aggregate gross floor area of 20,000 or more square feet of gross floor area among all buildings within the Development Parcel shall require a special permit for a Mixed-Use Development, which is defined to include a Development Parcel combining a residential use with at least two other principal uses listed in Table A as allowed by right or by special permit, in accordance with the procedures provided in section 30-24. Any proposed Mixed-Use Development shall comply with the following provisions and the provisions of sections 30-15(v) and Table 3, 30-24(c)(7), 30-24(c)(8), 30-24(i), 30-24(j)), and 30-24(f).

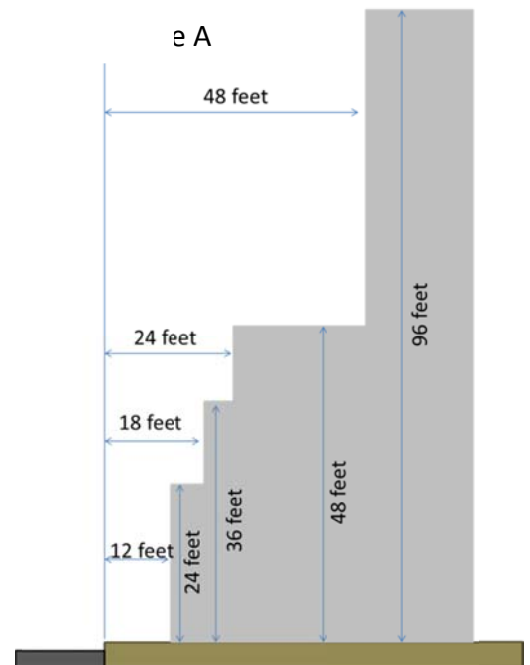
- (1) **Establishment of a Development Parcel.** The area developed under a special permit by this section must be organized into a Development Parcel as defined in Section 30-1. The Development Parcel may contain more than one lot and/or a portion of a lot. The provisions of this Zoning Ordinance shall apply to the Development Parcel as it exists on the date that the special permit is granted as if the Development Parcel were a single lot for zoning purposes, without reference to interior lot lines dividing separate ownerships. After the grant of a special permit per Section 30-13(g), the ownership may be further divided (subject to the establishment of an organization of owners defined in (3) below) and any interior lot lines shall be disregarded for zoning purposes. The Development Parcel may be modified from time to time to accommodate land swaps or the purchase of adjacent land, provided that the Development Parcel is not less than 9.33 acres in size and does not create or expand any nonconformities.
- (2) **Intensity of development.** The aggregate gross floor area of all structures, including private accessory parking structures within the Development Parcel, excluding any structures or portions of structures dedicated to public use and owned by a state instrumentality, shall be subject to all of the following provisions:
 - a) The total area of office uses shall not exceed 225,000 square feet of gross floor area and must be contained within one structure (excluding offices incidental to residential, retail and/or community uses);
 - b) The number of dwelling units within the Development Parcel shall not exceed 290 and must be contained within up to two structures; and
 - c) The total area of uses in Category B in enumerated Table A shall not exceed 20,000 square feet; and
 - d) The development must have at least one use from each of the three categories (A, B, and C) enumerated in Table A.
- (3) **Organization of Owners.** Prior to exercise of a special permit granted under this section, an organization of all owners of land within the Development Parcel shall be formed. The organization of owners will be governed by special permit with the authority and obligation to act on behalf of all such owners in contact with the city or its representatives regarding compliance with the zoning ordinance. The organization shall serve as the liaison between the city and any owner, lessee, or licensee within the Development Parcel governed by a special permit granted under section 30-13(g). Such organization shall be the primary contact for the city in connection with any dispute regarding violations of the zoning ordinance and, in addition to any liability of individual owners, shall have legal responsibility for compliance of the Development Parcel with the terms of the special permit for a Mixed-Use Development, site

plan approval, and other applicable provisions of the zoning ordinance. In addition, any special permit granted under this section shall provide for the establishment of an advisory council consisting of representatives of the adjacent neighborhoods and this organization to assure continued compatibility of the uses within the Development Parcel and its neighbors during and after construction.

2. By adding a new Section 30-15(v) as follows:

(v) **Mixed-Use Developments in the Mixed-Use 3/Transit-Oriented District.** Any development permitted by special permit per section 30-13(g) must meet the following requirements and the requirements of Table 3. The Board of Aldermen may grant a special permit per section 30-24, including section 30-24(i), to allow exceptions to the by-right dimensional standards of the Mixed-Use 3/Transit-Oriented District, provided that the requirements of this section are met and no dimension exceeds those allowed in Table 3 for the Mixed-Use Development Special Permit.

(1) **Setbacks.** Any structure or building must be set back at least one-half the height of that structure or building from any public way, except that for perimeter lot lines adjoining a state highway right-of-way or land owned by a state instrumentality the setback may be zero feet for nonresidential uses. To encourage stepped setbacks for taller structures, each portion of a building shall be treated as if it is a separate building for purposes of calculating required building heights and setbacks (as illustrated in Figure A). In accordance with the procedures provided in Section 30-24, the board of aldermen may grant a special permit to allow a reduction in the minimum setback if it determines that the proposed setback is adequate to protect abutting uses.



(2) **Beneficial Open Space.** At least 50% of the beneficial open space provided as part of a Mixed-Use Development must be freely open to the public.

(3) **Exclusion of Public Structures from Zoning Requirements.** Any portion of the Development Parcel for the proposed development owned by a state instrumentality and devoted to a governmental function from which the general public is excluded, such as but not limited to a rail yard, maintenance facility, or railroad right of way and any portion of a building or structure dedicated for public use by a state instrumentality, such as a passenger station or associated facilities for use by customers of the Massachusetts Bay Transportation Authority, shall not be included in the calculation of:

- i. The quantity of beneficial open space required;
- ii. Minimum lot area; or
- iii. Floor Area Ratio.

(4) **Impacts of Takings by or Conveyances to a Public Entity:** The provisions of section 30-26(a) shall apply to any taking by or conveyance of land within the Development Parcel to a public entity or to any land otherwise dedicated and accepted as a public way.

3. By adding the dimensional requirements for the Mixed-Use 3/Transit-Oriented District to Table 1 and Table 3 of Section 30-15 as follows:

Table 1

Zoning District	Minimum Required Lot Area	Lot Area per unit ¹	Frontage	
MU3/TOD	40,000	1,200	80	SEE TABLE 3 for other dimensional controls

Table 3

Zoning District ¹¹	Max. # of Stories	Bldg. Ht ¹² (feet)	Total Floor Area Ratio	Gross Floor Area/Site Plan Approval (SF)	Threshold by Special Permit (Gross Floor Area; SF)	Min Lot Area (SF)	Lot Coverage	Beneficial Open Space	Front (feet)	Side (ft.)	Rear (ft.)
MU3/ TOD											
As of Right	N/A	36	1.0	10,000-19,999	20,000	40,000	N/A	N/A	15 ⁹	10	15
Mixed-Use Development Special Permit, per 30-13(g) ¹³	N/A	135	2.4	N/A	N/A	40,000	N/A	15% ¹³	½ build. height ¹³	0	0

13. See section 30-15(v) for additional dimensional requirements for developments within the Mixed-Use 3/Transit-Oriented District.

4. By adding new sections 30-24(c)(7), 30-24(c)(8), 30-24(i), 30-24(j) as follows (and renumbering all the others):

(c)(7): **Project Phasing.** Any development subject to a special permit under section 30-13(g) may be built in multiple phases over a period of time, in accordance with the terms of the special permit granted, provided that all off-site improvements and enhancements to public roadways are completed prior to issuance of any occupancy permits.

(c)(8): **Adequacy of public facilities.** Transportation, utilities, water, sewer and storm water infrastructure, public safety, schools including capacity, and other public facilities and infrastructure shall serve the Mixed-Use Development appropriately and safely and without deterioration in service to other locations. To determine the adequacy of public facilities, impact studies of the following must be undertaken by the applicant as part of the special permit application process under 30-13(g) with the project scope determined by the director of planning and development, the city engineer, and traffic engineer. A peer review by a consultant may be required, hired by the city and paid for by the petitioner.

- Adequacy of road and traffic infrastructure, including the traffic analysis required in section 30-24(j)(6)
- Adequacy of water, sewer, and storm water infrastructure, including use of the water, sewer, and storm water analysis required in section 30-24(j)(8)
- Net fiscal impacts including use of the fiscal impact analysis required in section 30-24(j)(9)

As part of any special permit granted per section 30-13(g), post-construction studies for impacts on road and traffic capacity and water, sewer, and storm water service shall also be required. These

studies must be conducted within twelve months of full occupancy, or earlier if requested by the director of planning and development, the city engineer or traffic engineer, and continue annually for two years. If the actual impacts are consistent with projections, no further study or mitigation shall be required. If the actual impacts exceed projections, further mitigation shall be required. Following completion of any further mitigation required, annual follow-up studies shall be conducted until these studies show for five consecutive years that the impacts from the development comply with the special permit.

The special permit shall also require a bond or other security satisfactory to the director of planning and development, the city engineer, and traffic engineer to secure performance. If the petitioner fails to complete any required mitigation or to manage impacts within acceptable levels identified by special permit, subject to reasonable extensions under the circumstances, the bond or other security may, at the city's election, be forfeited and proceeds used by the city for mitigation.

Post-Construction Traffic Study. A special permit issued under section 30-13(g) shall provide for monitoring to determine consistency between the projected and actual number of weekday peak hour, Saturday peak hour, and weekday daily vehicle trips to and from the site and their distribution among points of access to the Mixed-Use Development. The special permit shall require a bond or other security satisfactory to the city traffic engineer and director of planning and development to secure performance as specified below:

- i. Monitoring of vehicle trips for this purpose shall begin not earlier than twelve months following the granting of the final certificate of occupancy and shall continue annually over the following twenty-four months. Measurements shall be made at all driveway accesses to the Mixed-Use Development and/or intersections studied in the pre-construction Roadway and Transportation Plan. The city engineer may require traffic monitoring earlier or more frequently if in his or her judgment, there appears to be degradation from the LOS projected by the pre-construction Roadway and Transportation Plan.
- ii. The actual number of weekday peak hour, Saturday peak hour, and weekday daily vehicle trips to and from the Mixed-Use Development at all points studied in the pre-construction Roadway and Transportation Plan shall be measured by a traffic engineering firm retained by the city and paid for by the applicant or successor.
- iii. Mitigations will be required if actual total number of vehicle trips to and from the Mixed-Use Development measured per subsection (ii), above, summed over the points of access exceeds the weekday evening Adjusted Volume projected per section 30-24(i)(5) by more than ten percent (10%) as a result of traffic generated by the Mixed-Use Development. Within six months of notification, the owner of the Mixed-Use Development site shall begin mitigation measures (reflecting applicable roadway design standards at the time and pending receipt of all necessary state and local approvals), as described in the Roadway and Transportation Plan submitted by the applicant and listed in the Mixed-Use Development special permit in order to reduce the trip generation to 110% or less of the Adjusted Volume. Such reduction is to be achieved within twelve months after mitigation begins. The city engineer and director of planning and development must approve any mitigation efforts prior to implementation.

(i) ***Additional special permit criteria for a Mixed-Use Development in the Mixed-Use 3/Transit-Oriented District.*** In granting a special permit for a Mixed-Use Development under section 30-13(g), the Board of

Aldermen shall not approve the special permit unless it also finds, in its judgment, that the proposal meets all of the following criteria in addition to those criteria in section 30-24(d):

- (1) *Not inconsistent with the Comprehensive Plan.* The proposed Mixed-Use Development is not inconsistent with the City's Comprehensive Plan in effect at the time of filing an application for a Mixed-Use Development and applicable general laws relating to zoning and land use;
- (2) *Housing, public transportation and parking improvements, and utility infrastructure enhancements.* The proposed Mixed-Use Development offers long-term public benefits to the city and nearby areas such as:
 - a) Improved access and enhancements to public transportation;
 - b) Enhancements to parking, traffic, and roadways;
 - c) On- and off-site improvements to pedestrian and bicycle facilities, particularly as they facilitate access to the site by foot or bicycle;
 - d) Public safety improvements;
 - e) On-site affordable housing opportunities except where otherwise allowed in subsection 30-24(f)(5), the inclusionary zoning ordinance; and
 - f) Water, sewer, and storm water infrastructure enhancement.
- (3) *Fiscal Impacts.* The proposed Mixed-Use Development has a positive fiscal impact on the city after accounting for all new tax revenue and expenses related to, but not limited to school capacity, public safety services and public infrastructure maintenance.
- (4) *Improved access nearby.* Pedestrian and vehicular access routes and driveway widths are appropriately designed between the proposed Mixed-Use Development and abutting parcels and streets, with consideration to streetscape continuity and an intent to avoid adverse impacts on nearby neighborhoods from such traffic and other activities generated by the Mixed-Use Development as well as to improve traffic and access in nearby neighborhoods
- (5) *Enhanced open space.* Appropriate setbacks, buffering, and screening are provided from nearby residential properties; the quality and access of beneficial open space and on-site recreation opportunities is appropriate for the number of residents, employees and customers of the proposed Mixed-Use Development; and meaningful connections to open spaces, recreational areas and natural resources that are publicly accessible and take full advantage of the unique opportunities for their use and enjoyment by the community at large.
- (6) *Excellence in place-making.* The proposed Mixed-Use Development provides a high quality architectural design so as to enhance the visual and civic quality of the site and the overall experience for residents of and visitors to both the Mixed-Use Development and its surroundings.
- (7) *Comprehensive signage program.* Notwithstanding the requirements of Section 30-20, all signage for the proposed Mixed-Use Development shall be in accordance with a comprehensive signage program developed by the applicant and approved by the Board of Aldermen, which shall control for all purposes, shall supersede any other sign requirements, and shall be complementary to the architectural quality of the Mixed-Use Development and character of the streetscape.
- (8) *Pedestrian scale.* The proposed Mixed-Use Development provides building footprints and articulations appropriately scaled to encourage outdoor pedestrian circulation; features buildings with appropriately spaced street-level windows and entrances; includes appropriate provisions for crossing all driveway entrances and internal roadways; and allows pedestrian access appropriately placed to encourage walking to and through the Development Parcel.

- (9) *Public space.* The proposed Mixed-Use Development creates public spaces as pedestrian-oriented destinations that accommodate a variety of uses, promote a vibrant street life, make connections to the surrounding neighborhood, as well as to the commercial and residential components of the Mixed-Use Development, to other commercial activity, and to each other.
- (10) *Sustainable design.* The proposed Mixed-Use Development at least meets the energy and sustainability provisions of subsections 30-24(d)(5), 30-24(g), and 30-23(c)(2)(h).
- (11) *Adequacy of parking.* Parking for the site is appropriate to the intensity of development, types of uses, hours of operation, availability of alternative modes of travel and encourages the use of alternatives without over-supplying parking.
- (12) *Pedestrian and Neighborhood Considerations.* If the proposed Mixed-Use Development project proposes any of the measures listed below, and if such measures, singly or in combination, create a substantial negative impact on pedestrians or surrounding neighborhoods, the applicant has proposed feasible mitigation measures to eliminate such substantial negative impact:
 - a) Widening or addition of roadway travel or turning lanes or conversion of on-street parking to travel lanes;
 - b) Removal of pedestrian crossing, bicycle lanes, or roadway shoulder;
 - c) Traffic signal additions, alterations, or roundabouts; and
 - d) Relocation or alterations to public transport access points.

(j) *Additional Filing Requirements for Special Permit in the Mixed-Use 3/Transit-Oriented District*

In addition to the provisions of sections 30-23 and 30-24, applicants for a grant of a special permit under section 30-13(g) shall submit:

- (1) **Conceptual Plans.** Prior to submittal of a Special Permit in the MU3/TOD, which will include items (2) to (12) below, applicants shall present conceptual plans for review by the Land Use Committee of the Board of Aldermen at a public meeting. The Committee shall provide a forum for a public presentation whereby the Committee and public may ask questions, gain an understanding of the project proposal, and provide feedback that can inform further development of the project. Submittal for conceptual review shall not require engineered plans, but shall include the following:
 - a) Project description, including project purpose or design rationale;
 - b) Project statistics, including zoning, current and proposed uses on site, total square footage for each use proposed, area to be covered by structures, FAR, number of bedrooms in all dwelling units, percentage of affordable units, percentages of open space with breakdown of beneficial and publicly-accessible open spaces;
 - c) Preliminary site plan, including dimensioned property lines and all building setbacks and building footprints, impervious surfaces, location of waterways, top of bank and distance from waterways, proposed demolitions, location and number of parking spaces, landscaping and open spaces, trees to be removed, north arrow and scale; and
 - d) Other information as may be requested by city staff to perform a zoning review and preliminary impact analyses.
- (2) 3-D computer model consistent with section 30-24(b);
- (3) Narrative analysis describing design features intended to integrate the proposed Mixed-Use Development into the surrounding neighborhood, including the existing landscape, abutting commercial and residential character and other site specific considerations, as well as an explanation of how the proposed Mixed-Use Development satisfies each

criterion in this section;

- (4) Statement describing how the beneficial open space areas, to the extent open to the public, are intended to be used by the public;
- (5) Site plans showing any by-right or zoning-exempt alternatives;
- (6) A Roadway and Transportation Plan reflecting the “EOEEA Guidelines for EIR/EIS Traffic Impact Assessment” with further attention to public transportation and exceptions, subject to review by the city traffic engineer, director of planning and development, and peer review consultants. The Plan should include the following:
 - a) Graphic and narrative description of existing and proposed means of access to and within the site, including motor vehicular, pedestrian, bicycle, and public or private transportation alternatives to single-occupant vehicles;
 - b) Description of a proposed transportation demand management (TDM) program identifying commitments, if any, to a designated TDM manager, employer contributions to employee public transportation passes, shuttle bus capital contribution, car pool, van pool, guaranteed ride home, flex hours, promotional programs, support for off-site pedestrian and bicycle accommodations, and similar efforts;
 - c) Detailed analysis and explanation for the maximum peak hour and daily motor vehicle trips projected to be generated by the Mixed-Use Development, documenting:
 - i) The projected Base Volume of trips to and from the Mixed-Use Development based upon the latest edition of the Trip Generation Manual published by the Institute of Transportation Engineers or other sources, such as comparable projects in Newton or nearby communities, acceptable to the city traffic engineer and director of planning and development;
 - ii) The projected Adjusted Volume of trips net of reductions resulting from internally captured trips; access by public transport, ridesharing, walking or biking; and through the TDM program cited above; but without adjustment for “pass-by” trips, and noting how those reductions compare with the Mixed-Use Development guideline of Adjusted Volume being at least ten percent (10%) below the Base Volume on weekday evening peak hours;
 - iii) The means of making mitigations if it is found pursuant to the monitoring under section 30-24(c)(7) of this section that the trips counted exceed the projected Adjusted Volume by ten percent (10%) or more; and
 - iv) The projected trip reduction adjustment based on “pass-by” trips for use in projecting impacts on street traffic volumes.
 - d) Analysis of traffic impacts on surrounding roadways, including secondary roads on which traffic to the Mixed-Use Development may have a negative impact. Results are to be summarized in tabular form to facilitate understanding of change from pre-development no-build conditions to the build-out conditions in trip volumes, volume/capacity ratios, level of service, delays, and queues;
 - i) The assumptions used with regard to the proportion of automobile use for travel related to the site, the scale of development and the proposed mix of uses, and the amount of parking provided; and
 - ii) Analysis of projected transit use and description of proposed improvements in transit access, frequency and quality of service.
- (7) A shared-parking analysis that demonstrates that the number of parking spaces to be

provided is appropriate to the context, taking into consideration the mix of uses; the demand for parking spaces at different times of day, week, and year; availability of alternative modes of transportation; and other site-specific influences on parking supply and demand.

- (8) Water, sewer, and storm water impact analysis. The analysis shall be subject to review by the city engineer, director of planning and development, and peer review consultants and shall include the following:
- a) A study of the proposed project's surface water runoff relating to the Charles River and associated deep marsh system, which explores all feasible methods of reducing impervious surfaces, including underground parking and/or more compact site layouts, as well as the possibility of roof water harvesting for irrigation reuse, including:
 - b) A conceptual drainage plan demonstrating the consistency of the drainage infrastructure plan with the DEP Storm Water Management Policy and the City of Newton drainage policy;
 - c) A drainage analysis based on the City's 100-year storm event of six inches over a 24-hour period, showing how runoff from impervious will be infiltrated on-site;
 - d) An on-site soil evaluation identifying seasonal high groundwater elevation and percolation rate and locations of these tests shown on the site plan;
 - e) If a connection to the city's drainage system is proposed, prior to approval of this permit a closed circuit television (CCTV) inspection shall be performed and witnessed by the engineering division, the applicant shall provide the city inspector with a video or CD prepared by a CCTV specialist hired by the applicant. A post-construction video inspection shall also take place and witnessed as described above;
 - f) An evaluation of hydraulic capacity of the downstream drainage system submitted to the engineering division to determine any impact to the municipal drainage system;
 - g) A master plan and schedule of the sanitary sewer system improvements, Including:
 - i) A plan showing a reduction in infiltration and inflow into the sanitary sewer system of at least eight gallons for every one gallon of sanitary sewage contribute by this development;
 - ii) A calculation of the life-cycle cost of the proposed sanitary system;
 - iii) A quantitative analysis of the capacity to dispose, verified by the MWRA; and
 - iv) A study showing how the developer will comply with the city's cross connection control program sanitary to storm).
 - h) A 21E Environmental Site Investigation Report that evaluates the site for any contaminants related to underground fuel or oil tanks, creosote, leachate from existing trolley tracks, cleaning and/or washing facilities, or local dry wells.
 - i) A solid waste master plan including a detailed explanation of how the uses will control solid waste through reduction, reuse, recycling, compaction and removal that demonstrates compliance with the city's solid waste master plan. The plan shall provide estimates of the expected solid waste generation by weight and volume for each of the uses proposed for the site with consideration to peak volumes.
 - j) A quantitative analysis that demonstrates that the water demands of the proposed

development will not overburden the water supply of existing infrastructure provided by the city, including fire flow testing for the proposed fire suppression system, as well as domestic demands from the entire development. The applicant must coordinate this test with both the fire department and utilities division; representatives of each department shall witness the testing and test results shall be submitted in a written report. Hydraulic calculations shall be submitted to the fire department for approval. Hydraulic analysis for both domestic and fire suppression will be required via hydraulic modeling in a format acceptable to the utilities director.

- (9) Fiscal impact analysis that includes school impacts analysis prepared by a professional analyst, subject to peer review;
- (10) Proposed phasing schedule, including infrastructure improvements;
- (11) Shadow study showing shadow impacts on the surrounding properties for four seasons at early morning, noon, and late afternoon; and
- (12) Applicants must submit in electronic form all documents required by sections 30-23 and 30-24 (including this section 30-24(i)) and any supplemental reports, memoranda, presentations, or other communications submitted by the applicant or its representatives to the Board of Aldermen and pertaining to the special permit application unless the applicant demonstrates to the satisfaction of the director of planning and development that electronic submission or compliance with that standard is not feasible. Documents created using Computer Aided Design and Drafting software shall comply with the Mass GIS "Standard for Digital Plan Submittal to Municipalities," or successor standard. Electronic submission must be contemporaneous with submission by any other means. The director of planning and development will arrange to have electronically submitted documents posted on the city website within a reasonable time after receipt.

5. *By adding a new Section 30-19(d)(22) as follows:*

- (22) Notwithstanding the other requirements of 30-19(d), by special permit from the Board of Aldermen in accordance with the procedures provided in section 30-24, the parking requirement for a mixed-use development approved under Section 30-13(g) shall be set through a shared-parking analysis, which demonstrates that the number of stalls provided is sufficient for the combination of uses proposed taking into account the proximity to public transportation and other factors. This analysis shall be subject to review by the city's planning director and peer review at the applicant's expense if requested by the planning director. Following the grant of a special permit under this section, no material change in the combination of uses shall be authorized until the petitioner submits a revised analysis demonstrating to the satisfaction of the planning director that sufficient parking exists to accommodate the new combination of uses or requests and receives a modification of the special permit to authorize a change in the number of stalls provided.

6. *By deleting the definition of “Development Parcel” as it appears in Section 30-1, Definitions, and substituting the following definition:*

Development Parcel: The real property on which a Planned Multi-Use Business Development or a Mixed-Use Development is located in connection with a special permit under Section 30-15(s) or 30-13(g).

By deleting the definition of “Open Space, beneficial as it appears in Section 30-1, Definitions, and substituting the following definition:

Open Space, Beneficial: Areas not covered by buildings or structures that are available for active or passive recreation, which shall include, but are not limited to: landscaped areas, including space located on top of a structure, gardens, playgrounds, walkways, plazas, patios, terraces and other hardscaped areas, and recreational areas, and shall not include: (i) portions of walkways intended primarily for circulation, i.e., that do not incorporate landscape features, sculpture or artwork, public benches, bicycle racks, kiosks or other public amenities, (ii) surface parking facilities or associated pedestrian circulation, (iii) areas that are accessory to a single housing unit, or (iv) areas that are accessory to a single commercial unit, and controlled by the tenant thereof, and not made available to the general public.

And by adding the following Definition in Section 30-1 as follows:

“Community Use Space: Space that is open to the public and used for, but not limited to, ball courts, gymnasias, play areas, community meeting rooms, social services, outdoor play areas, playgrounds, related seating areas, and similar uses.”

7. *By inserting a new Section 30-5(a)(4) as follows:*

(4) Public uses described in Section 30-6(a) through (k); provided that such uses shall be subject only to site plan review as required under Section 30-6 and shall not be subject to dimensional, parking or any otherwise applicable zoning requirement.

TIER II – SECOND ACTION

If the **INITIAL ACTION** is adopted, consider amending it by inserting the following as Section 30-15(v)(5) and modifying Table 3 of Section 30-15, provided that all other dimensional standards are met:

- (5) ***Incentives.*** For providing direct access to and from an interstate highway, the maximum allowed gross floor area may be increased by 250,000 square feet not to exceed 1,200,000 square feet total gross floor area and an FAR of 3.0, including above-ground parking

TIER III – THIRD ACTION

Following adoption of the **INITIAL ACTION**, consider amending Section 30-15(g)(2) to read as follows (whether or not it has been altered by the second action, above):.

(1) ***Intensity of development.*** The aggregate gross floor area of all structures visible above grade within the Development Parcel shall not exceed 1.5 million square feet of gross floor area, including private accessory parking structures and excluding any structure or portions of structure dedicated to public use and owned by a state instrumentality, and shall also be subject to all of the following provisions:

- a) The number of dwelling units within the Development Parcel shall not exceed 300;
- b) The total gross floor area of all uses in Table A shall not exceed 1.5 million square feet, including above-grade parking; and
- c) The development must have a least one use from each of the three categories (A, B, and C) enumerated in Table A.

Amend the figure in Section 30-15, Table 3 in the Building Height (feet) column for Mixed-Use Development Special Permit, per 30-13(g) changing it from 135 to 168 and the Floor Area Ratio column changing it from 2.4 to 3.7.